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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,582	01/27/2004	Tetsuro Motoyama	245416US2	8976
22850	7590	05/23/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			WON, MICHAEL YOUNG	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,582

Applicant(s)

MOTOYAMA ET AL.

Examiner

Michael Y. Won

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/1/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed March 28, 2006.
2. Claims 4, 14, 24 have been amended.
3. Claims 1-30 have been examined and are pending with this action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aggarwal (US 2004/0088405 A1) in view of Zupcsics et al. (US 5,787,248).

INDEPENDENT:

As per **claim 1**, *Aggarwal* teaches a method of initializing a plurality of protocol objects associated with respective communication protocols used to extract status

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information related to a monitored device communicatively coupled to a network, comprising:

retrieving, from a first memory, information for accessing the device using the communication protocol (see pg.14, paragraph [0419]: “the present invention can import device name, *IP address*... from the HP OpenView NNM database”);

accessing the device using the communication protocol and the information retrieved from the first memory to attempt to obtain vendor information related to the device (see pg.9, paragraph [0340]: “the target device database record may be updated with vendor and model information);

determining whether the vendor information was obtained from the device (inherent);

if the vendor information was obtained from the device, (1) obtaining, from a second memory, support information for extracting the status information using each of the respective communication protocols (see pg.9, paragraph [0344] & [0345]), and (2) storing the vendor information and the respective support information in each protocol object of the plurality of protocol objects (implicit: see pg.9, paragraph [0340]: “the target device database record may be updated with *vendor* and model information”; and paragraph [0344]: “Gathered data may be stored locally by each DGE”); and

if the vendor information was not obtained from the device, repeating the preceding steps until the vendor information is obtained (see pg.9, paragraph [0340]: “When the auto-discovery for **SNMP** occurs...”; and paragraph [0345]) or until each communication protocol of the respective communication protocols has been selected.

Although *Aggarwal* teaches of plurality of protocols applicable with the invention (see pg.4, paragraph [0068]), he does not explicitly teach of selecting a communication protocol among the respective communication protocols. *Zupcsics* teaches of selecting a communication protocol among the respective communication protocols (see col.6, lines 65-67).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teaching of *Zupcsics* within the system of *Aggarwal* by implementing selecting a communication protocol among the respective communication protocols within the protocol initializing method because *Zupcsics* teaches that by employing the selection process of his invention, interchange of multiple protocols are possible without the drawbacks of prior art approaches such as having to change hardware or install new software, or without effecting the processing time with increase in different protocols (see col.3, lines 42-55).

As per **claim 11**, *Aggarwal* teaches a system for initializing a plurality of protocol objects associated with respective communication protocols used to extract status information related to a monitored device communicatively coupled to a network, comprising:

means for retrieving, from a first memory, information for accessing the device using the communication protocol (see pg.14, paragraph [0419]: "the present invention can import device name, *IP address*... from the HP OpenView NNM database");

means for accessing the device using the communication protocol and the information retrieved from the first memory to attempt to obtain vendor information related to the device (see pg.9, paragraph [0340]: “the target device database record may be updated with vendor and model information);

means for determining whether the vendor information was obtained from the device (inherent);

means for obtaining, from a second memory, support information for extracting the status information using each of the respective communication protocols, if the means for determining determines that the vendor information was obtained from the device (see pg.9, paragraph [0344] & [0345]); and

means for storing the vendor information and the respective support information in each protocol object of the plurality of protocol objects, if the means for determining determines that the vendor information was obtained from the device (implicit: see pg.9, paragraph [0340]: “the target device database record may be updated with *vendor* and model information”; and paragraph [0344]: “Gathered data may be stored locally by each DGE”).

Although *Aggarwal* teaches of plurality of protocols applicable with the invention (see pg.4, paragraph [0068]), he does not explicitly teach of means for selecting a communication protocol among the respective communication protocols.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teaching of *Zupcsics* within the system of *Aggarwal* by implementing selecting a communication protocol among the respective

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communication protocols within the protocol initializing system because *Zupcsics* teaches that by employing the selection process of his invention, interchange of multiple protocols are possible without the drawbacks of prior art approaches such as having to change hardware or install new software, or without effecting the processing time with increase in different protocols (see col.3, lines 42-55).

As per **claim 21**, *Aggarwal* teaches a computer program product having a computer usable medium for initializing a plurality of protocol objects associated with respective communication protocols used to extract status information related to a monitored device communicatively coupled to a network, comprising:

instructions for retrieving, from a first memory, information for accessing the device using the communication protocol (see pg.14, paragraph [0419]: "the present invention can import device name, *IP address*... from the HP OpenView NNM database");

instructions for accessing the device using the selected communication protocol and the information retrieved from the first memory to attempt to obtain vendor information related to the device (see pg.9, paragraph [0340]: "the target device database record may be updated with vendor and model information);

instructions for determining whether the vendor information was obtained from the device (inherent);

if the vendor information was obtained from the device, (1) instructions for obtaining, from a second memory, support information for extracting the status

information using each of the respective communication protocols (see pg.9, paragraph [0344] & [0345]), and (2) instructions for storing the vendor information and the respective support information in each protocol object of the plurality of protocol objects (implicit: see pg.9, paragraph [0340]: “the target device database record may be updated with *vendor* and model information”; and paragraph [0344]: “Gathered data may be stored locally by each DGE”); and

if the vendor information was not obtained from the device, instructions for repeating the preceding instructions until the vendor information is obtained (see pg.9, paragraph [0340]: “When the auto-discovery for SNMP occurs...”; and paragraph [0345]) or until each communication protocol of the respective communication protocols has been selected.

Although *Aggarwal* teaches of plurality of protocols applicable with the invention (see pg.4, paragraph [0068]), he does not explicitly teach of instructions for selecting a communication protocol among the respective communication protocols.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teaching of *Zupcsics* within the system of *Aggarwal* by implementing selecting a communication protocol among the respective communication protocols within the protocol initializing computer program product because *Zupcsics* teaches that by employing the selection process of his invention, interchange of multiple protocols are possible without the drawbacks of prior art approaches such as having to change hardware or install new software, or without effecting the processing time with increase in different protocols (see col.3, lines 42-55).

DEPENDENT:

As per **claims 2, 12, and 22**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* and *Zupcsics* teaches of further comprising:

accessing the device using the selected communication protocol and the information retrieved from the first memory to attempt to obtain model information related to the device (see *Aggarwal*: pg.9, paragraph [0340]: "the target device database record may be updated with vendor and *model* information).

As per **claims 3, 13, and 23**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* and *Zupcsics* further teaches wherein the selecting step comprises:

selecting the communication protocol among SNMP, HTTP, and FTP (see *Aggarwal*: pg.4, paragraph [0068]).

As per **claims 4, 14, and 24**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* further teaches wherein the retrieving step comprises: retrieving an IP address of the device (see pg.14, paragraph [0419]: "the present invention can import device name, *IP address*... from the HP OpenView NNM database"), wherein the device is one of a copier, a scanner, a printer, a facsimile machine, an appliance, and a metering system (see page 1, paragraphs [0006] & [0008]; page 6, paragraph [0111]).

As per **claims 5, 15, and 25**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* and *Zupcsics* further teaches wherein the selecting step comprises selecting FTP, and the retrieving step comprises retrieving at least one of a

username and a password for accessing the device using FTP (see Aggarwal: pg.5, paragraph [0077]).

As per **claims 6, 16, and 26**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* and *Zupcsics* further teaches wherein the selecting step comprises selecting SNMP, and the retrieving step comprises retrieving at least one of a community name and a password for accessing the device using SNMP (see Aggarwal: pg.5, paragraph [0079]-[0081]).

As per **claims 7, 17, and 27**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* further teaches wherein storing the vendor information comprises storing the vendor information in protocol-dependent data structure associated with each protocol object (see pg.8, [0297]-[0306]).

As per **claims 8, 18, and 28**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* further teaches wherein the retrieving step comprises:
retrieving at least one of a web page address, a keyword, and a relative location for accessing the device using HTTP (see pg.8, paragraph [0321]).

As per **claims 9, 19, and 29**, which depends on claims 1, 11, and 21, respectively, *Aggarwal* and *Zupcsics* further teaches wherein the accessing step comprises:

transmitting, to the device, the information to access the device using the selected communication protocol (see Aggarwal: pg.4, paragraph [0054]: "automatically sending individual queries").

As per **claims 10, 20, and 30**, which depends on claims 9, 19, and 29, respectively, *Aggarwal* and *Zupcsics* further teaches wherein the accessing step comprises:

receiving, by the device, the transmitted information (inherent); and
processing, by the device, the received information (see *Aggarwal*: pg.13, paragraph [0394]).

Response to Arguments

5. Applicant's arguments filed March 28, 2006 have been fully considered but they are not persuasive.

A. Applicant(s) argue regarding claim 1, 11, and 21, that *Aggarwal* does not teach the limitation "if the vendor information was obtained from the device, (1) obtaining, from a second memory, support information for extracting the status information using each of the respective communication protocols, and (2) storing the vendor information and the respective support information in each protocol object of the plurality of protocol objects".

In response to the argument of A., *Aggarwal* teaches on page 9, paragraph [0340] of an "auto-discovery for SMNP", where database comprising target device record may be updated. If this update occurs, clearly the DGE is inherently not configured and therefore the condition for performing results. Therefore, the condition of "data gathering information is not configured" is essentially the same as "if the vendor

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information was obtained” since if the vendor information is obtained, the data gathering information would be inherently no configured.

Furthermore, since Aggarwal teaches that SNMP is a protocol for network management between managed device and SNMP manager via managed objects (see page 5, paragraph [0079]). Therefore, it is implicit that when Aggarwal teaches on page 9, paragraph [0340] of an “auto-discovery for SMNP”, the “Gathered data may be stored locally by each DGE” would be stored in an SMNP object with respect to the device.

B. Applicant(s) argue regarding claim 1, 11, and 21, that Aggarwal does not teach the limitation “if the vendor information was not obtained from the device, repeating the preceding steps until the vendor information is obtained or until each communication protocol of the respective communication protocols has been selected”

In response to the argument of B., the logic is the same as in A. If the vendor device is not obtained, then the DGE is not yet configured and therefore, steps of selecting, retrieving, accessing, determining, obtaining, and storing would be repeated since Aggarwal teaches these steps to ultimately monitor the device.

C. Zupcsics is not relied upon to teach the elements discussed above.

D. Applicant(s) argue that there is no motivation to combine Zupcsics and Aggarwal.

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In response to the argument of D., the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, since Aggarwal teaches of plurality of protocols, it would have been obvious to employ a selection process for employing the protocol necessary for device monitoring.

E. The applicant(s) are reminded that during patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Furthermore, while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. See *In re American Academy of Science Tech Center*, F.3d 2004 WL 1067528 (Fed. Cir. May 13, 2004).

F. For the reasons above claim 1-30 remain rejected.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y. Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Won



May 18, 2006



SALEH NAJJAR
SUPERVISORY PATENT EXAMINER